

**CHAPTER 10 – SUBSIDIZED CHILD CARE RULES**  
**Effective October 28, 2016**

	<b>PAGE</b>
<b>SECTION .0100 IDENTIFYING AND GENERAL INFORMATION</b>	<b>1</b>
.0101 SCOPE	
.0102 DEFINITIONS	
 <b>SECTION .0200 REQUIREMENTS FOR THE PURCHASE OF CHILD CARE</b>	 <b>2</b>
.0201 APPLICABILITY	
.0202 PAYMENT RATES	
.0203 RATES FOR SUBSIDIZED CHILD CARE	
 <b>SECTION .0300 REQUIREMENTS FOR CHILD CARE SERVICE FUNDS</b>	 <b>4</b>
.0301 DEFINITION OF FUND	
.0302 DEFINITION OF SERVICES – REPEALED APRIL 1, 2016	
.0303 ELIGIBILITY - REPEALED APRIL 1, 2016	
.0304 FEES - REPEALED APRIL 1, 2016	
.0305 PROGRA POLICIES AND STANDARDS - REPEALED APRIL 1, 2016	
.0306 ALLOCATION	
.0307 REIMBURSEMENT	
.0308 SANCTIONS AND APPEALS FOR FRADULENT MISREPRESENTATION	
.0309 CORRECTION OF OVERPAYMENTS AND UNDERPAYMENTS	
.0310 REQUIREMENTS FOR THE ADMINISTRATION OF THE SUBSIDIZED CHILD CARE PROGRAM	
.0311 PROVIDER APPEAL TO LOCAL PURCHASING AGENCY	
.0312 APPEAL TO DIVISION OF CHILD DEVELOPMENT AND EARLY EDUCATION SUBSIDY SERVICES REVIEW PANEL	
.0313 EFFECT OF ADMINISTRATIVE ACTION ISSUED AGAINST PROVIDER	
 <b>SECTION .0400 START-UP FUNDS</b>	 <b>10</b>
.0401 DEFINITION OF START-UP FUNDS – REPEALED DECEMBER 1, 2011	
.0402 REVIEW OF CRITERIA FOR START-UP FUNDS - REPEALED DECEMBER 1, 2011	
 <b>SECTION .0500 REQUIREMENTS FOR CONTRACTS WITH PRIVATE AGENCIES</b>	 <b>11</b>
.0501 SCOPE	
.0502 APPROVAL	
.0503 LENGTH OF CONTRACT	
.0504 ADMINISTRATION OF FUNDS	

.0505	ADMINISTRATION OF PROGRAM	
.0506	RECORDS	
<b>SECTION</b>	<b>.0600 REQUIREMENTS FOR CHILD CARE CENTERS</b>	<b>13</b>
.0601	STANDARDS FOR CENTERS PARTICIPATING IN THE SUBSIDIZED CHILD CARE ASSISTANCE PROGRAM	
.0602	APPROVAL AND CONTINUED PARTICIPATION IN THE SUBSIDIZED CHILD CARE PROGRAM	
.0603	APPEALS – REPEALED DECEMBER 1, 2011	
<b>SECTION</b>	<b>.0700 REQUIREMENTS FOR FAMILY CHILD CARE HOMES</b>	<b>15</b>
.0701	STANDARDS FOR FAMILY CHILD CARE HOMES PARTICIPATING IN THE SUBSIDIZED CHILD CARE ASSISTANCE PROGRAM	
.0702	APPROVAL AND CONTINUED PARTICIPATION IN THE SUBSIDIZED CHILD CARE PROGRAM	
.0703	APPEALS – DECEMBER 1, 2011	
<b>SECTION</b>	<b>.0800 REQUIREMENTS FOR NONLICENSED CHILD CARE HOMES</b>	<b>17</b>
.0801	DEFINITION - REPEALED APRIL 1, 2016	
.0802	DIVISION RESPONSIBILITY - REPEALED APRIL 1, 2016	
.0803	LOCAL PURCHASING AGENCY RESPONSIBILITY - REPEALED APRIL 1, 2016	
.0804	INITIAL APPROVAL - REPEALED APRIL 1, 2016	
.0805	MAINTAINING APPROVAL - REPEALED APRIL 1, 2016	
.0806	PAYMENT REQUIREMENTS - REPEALED APRIL 1, 2016	
.0807	APPEALS - REPEALED APRIL 1, 2016	
.0808	APPLICABILITY OF RULES - REPEALED APRIL 1, 2016	
.0809	PARENT-PROVIDER CHECKLIST - REPEALED APRIL 1, 2016	
.0810	HEALTH AND SAFETY STANDARDS - REPEALED APRIL 1, 2016	
.0811	PROVIDER REQUIREMENTS - REPEALED APRIL 1, 2016	
<b>SECTION</b>	<b>.0900 GENERAL POLICIES FOR PROVISION OF SUBSIDIZED CHILD CARE SERVICES</b>	<b>18</b>
.0901	SCOPE	
.0902	METHODS OF SERVICE PROVISION	
.0903	DEFINITION OF SERVICE	
.0904	OPTIONAL PROVISION OF SERVICES	
.0905	SUPPORT TO EMPLOYMENT: TRAINING FOR EMPLOYMENT	
.0906	SUPPORT FOR PROTECTIVE AND CHILD WELFARE SERVICES	
.0907	PROMOTE CHILD’S DEVELOPMENT	
.0908	LIMITATIONS	
.0909	PARENTAL FREEDOM OF CHOICE	
.0910	DEFINITION OF SPECIAL NEEDS CHILD	

<b>SECTION</b>	<b>.1000 ELIGIBILITY FOR SERVICES</b>	<b>23</b>
.1001	BASIC ELIGIBILITY CRITERIA	
.1002	INCOME ELIGIBLE STATUS	
.1003	INCOME ELIGIBILITY LEVELS	
.1004	WITHOUT REGARD TO INCOME	
.1005	RESPONSIBILITY FOR ELIGIBILITY DETERMINATION	
.1006	DETERMINATION OF INCOME ELIGIBILITY	
.1007	REQUIREMENTS FOR DETERMINATION AND REDETERMINATION OF ELIGIBILITY	
<b>SECTION</b>	<b>.1100 CLIENTS FEES FOR CHILD CARE SERVICES</b>	<b>27</b>
.1101	GENERAL FEE POLICY	
.1102	AMOUNT AND COLLECTION OF CLIENTS FEES	
.1103	ADJUSTMENTS FEES	

[THIS PAGE IS INTENTIONALLY LEFT BLANK]

## CHAPTER 10 – SUBSIDIZED CHILD CARE RULES

### SECTION .0100 - IDENTIFYING AND GENERAL INFORMATION

#### 10A NCAC 10 .0101 SCOPE

The rules in this Chapter govern the purchase of child care services with state and federal child care funds administered by the Division.

*History Note: Authority G.S. 143B-10; 143B-153; S.L. 1985, c. 757, s. 155(q); Eff. October 26, 1979; Amended Eff. April 1, 2001; February 1, 1996; July 1, 1990; February 1, 1986; Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.*

#### 10A NCAC 10 .0102 DEFINITIONS

In addition to the terms defined in G.S. 110-86, the following definitions apply to the term used in this Chapter.

- (1) "Director" means the Director of the Division of Child Development and Early Education.
- (2) "Division" means the Division of Child Development and Early Education, Department of Health and Human Services, located at 820 South Boylan Avenue, Raleigh, North Carolina 27603.
- (3) "Foster Parent" means anyone other than that child's parent(s) or legal custodian(s) who is providing full time care for a child who is in the custody of a North Carolina county department of social services.
- (4) "Homeless Children" means the definition in section 725(2) of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11434a(2), which is hereby incorporated by reference and includes subsequent amendments and editions.
- (5) "Local Purchasing Agency" means the local agency responsible for administering the state's subsidized child care program.
- (6) "Owner" means any person with a five percent or greater equity interest in a child care center, or family child care home as defined in G.S. 110-86(3)b.
- (7) "Private Agency" means a private, for profit or non-profit, non-governmental entity.
- (8) "Provider" means the owner of a child care center, or family child care home.
- (9) "Recipient" means the parent or responsible adult approved for subsidized child care services pursuant to Section .1000 of this Chapter.
- (10) "Subsidized Child Care Assistance Program" means the administrative, programmatic, and fiscal activities related to the use of public funds to pay for child care services for families.

*History Note: Authority G.S. 143B-153(2a); Eff. February 1, 1986; Amended Eff. June 1, 2016; December 1, 2011; April 1, 2001; February 1, 1996.*

## **SECTION .0200 - REQUIREMENTS FOR THE PURCHASE OF CHILD CARE**

### **10A NCAC 10 .0201      APPLICABILITY**

All child care providers from which child care is purchased for eligible children with child care services funds shall adhere to the rules of this Subchapter that apply to that type of provider.

*History Note: Authority G.S. 143B-153(2a);  
Eff. October 26, 1979;  
Amended Eff. April 1, 2001; January 1, 1987; April 1, 1985;  
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest  
Eff. March 1, 2016.*

### **10A NCAC 10 .0202      PAYMENT RATES**

- (a) Rates for daily care purchased from a child care center shall be established according to the procedures described in Rule .0203 of this Section and according to the instructions included in the annual appropriations act.
- (b) The payment rate for child care purchased from a child care home as defined in G.S. 110-86(3) shall be limited to the county market rate for home-based child care established by the Department in accordance with the annual appropriations act.
- (c) The payment rate for child care purchased from a home-based child care arrangement which meets the requirements established by the Social Services Commission for a nonlicensed child care home, as codified in 10A NCAC 10 .0800, shall be limited to the county market rate for home-based nonlicensed child care established by the Department in accordance with the annual appropriations act.
- (d) The payment rates for daily transportation purchased from any approved provider shall be established by the Department in accordance with the annual appropriations act.
- (e) Payment rates for part-time care shall be prorated according to the number of hours per day or the number of hours per week the child is scheduled to attend. Payment rates for care provided by shift or during the weekend shall be limited to the market rate or the provider's private rate, whichever is lower.
- (f) Client fees imposed in accordance with the annual appropriations act shall be subtracted from the county payment rate to determine the state payment amount for an individual child.

*History Note: Authority G.S. 143B-153(8)a;  
Eff. January 1, 1987;  
Amended Eff. April 1, 2001; August 1, 1994; July 1, 1990.*

### **10A NCAC 10 .0203      RATES FOR SUBSIDIZED CHILD CARE**

- (a) The payment rates for child care centers, family child care homes, and nonlicensed child care homes are implemented in accordance with the annual appropriations act.
- (b) Centers, as defined in G.S. 110-86(3), which are certified as developmental day centers by the Division of Child Development and Early Education and serve children who meet the definition of special needs set forth in 10A NCAC 10 .0910 are exempt from the provisions of Paragraph (a) of this Rule. The payment rates for special needs children served in developmental day centers are calculated by deducting the total revenues per child month from the total costs per child month. That rate is then multiplied by the current inflation percentage provided by the Office of State Budget and

Management. For typically developing children enrolled in developmental day centers, the rates shall exclude those costs associated exclusively with serving children with special needs. The payment rates for special needs children and typically developing children served in developmental day centers are calculated every two years and are implemented as funding allows.

(c) Any Local Purchasing Agency (LPA) approved child care provider not included in Paragraph (b) of this Rule who provides care to children who meet the definition of special needs set forth in 10A NCAC 10 .0910 may be paid a supplemental rate above the provider's LPA approved rate for a particular age group. The supplemental rate shall be based on actual additional documented costs incurred by the provider in serving the child with special needs. The costs shall be determined by the early intervention specialist, the local education agency's exceptional children program specialist, the local purchasing agency, and the provider based on the plan developed to meet the child's individual needs.

(d) The reimbursement of additional fees as charged by centers is limited to registration fees. The payment rate for registration fees is determined by the annual appropriations act. Registration fees may not be paid more than twice per year per child regardless of the type of center.

(e) Purchasing agencies may negotiate with child care center providers for purchase of child care services at payment rates lower than those prescribed by this Rule, only with approval from the Division. Approval shall be granted if it can be determined that a non-negotiated payment rate would have a negative impact on the purchasing agency's ability to purchase subsidized child care services, based on the following factors:

- (1) the number of children on the waiting list for subsidized child care services;
- (2) whether the non-negotiated rates exceed the rates for services paid by private paying families in the service area; and
- (3) the amount of subsidized child care funds available.

(f) Child care services funds shall not be used to pay for services provided by the Department of Health and Human Services, Division of Public Health or the Department of Public Instruction, Division of Exceptional Children's Services for that portion of the service delivery costs which are reimbursed by the Division of Public Health or Department of Public Instruction.

*History Note: Authority G.S. 143B-153(8)a;*

*Eff. January 1, 1987;*

*Amended Eff. March 1, 2012; April 1, 2001; February 1, 1996; December 1, 1992;*

*July 1, 1990.*

## SECTION .0300 - REQUIREMENTS FOR CHILD CARE SERVICE FUNDS

### 10A NCAC 10 .0301 DEFINITION OF FUND

"Child Care Services Funding" means all state and federal funds appropriated and otherwise made available to the Department of Health and Human Services which are administered by the Division of Child Development, to purchase or provide child care services for needy families in programs which have been approved for participation by the Division.

*History Note: Authority G.S. 143B-153(2a); S.L. 1985, c. 479, s. 95-97;  
Eff. October 26, 1979;  
Temporary Amendment Eff. July 1, 1982, for a period of 120 days to expire on October 28, 1982;  
Legislative Objection Lodged Eff. July 20, 1982;  
Amended Eff. April 1, 2001; February 1, 1996; February 1, 1986; August 1, 1982;  
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest  
Eff. March 1, 2016.*

### 10A NCAC 10 .0302 DEFINITION OF SERVICES

### 10A NCAC 10 .0303 ELIGIBILITY

### 10A NCAC 10 .0304 FEES

### 10A NCAC 10 .0305 PROGRAM POLICIES AND STANDARDS

*History Note: Authority G.S. 143B-153; 143B-153(2a);  
Eff. October 26, 1979;  
Amended Eff. July 1, 1980;  
Temporary Amendment Eff. July 1, 1982, for a period of 120 days to expire on October 28, 1982;  
Legislative Objection Lodged Eff. July 20, 1982;  
Amended Eff. April 1, 2001; February 1, 1996; July 1, 1990; April 1, 1987; February 1, 1986; July 1, 1983; August 1, 1982; July 1, 1980;  
Expired Eff. April 1, 2016 pursuant to G.S. 150B-21.3A.*

### 10A NCAC 10 .0306 ALLOCATION

Funds are allocated in accordance with procedures specified with the appropriation. In the absence of such instructions, the funds will be allocated according to rules adopted by the Secretary. All allocation procedures are kept on file in the Division.

*History Note: Authority G.S. 143B-153(2a);  
Eff. October 26, 1979;  
Amended Eff. April 1, 2001; July 1, 1990; February 1, 1986; April 1, 1985.*

### 10A NCAC 10 .0307 REIMBURSEMENT

Local purchasing agencies shall key information regarding expenditures for subsidized child care services into the Division's Subsidized Child Care Reimbursement System on a monthly basis in order for the services to be reimbursed.

*History Note: Authority G.S. 143B-153(2a);  
Eff. October 26, 1979;  
Amended Eff. April 1, 2001; July 1, 1990; February 1, 1986; April 1, 1985.*

**10A NCAC 10 .0308                    SANCTIONS AND APPEALS FOR FRAUDULENT  
MISREPRESENTATION**

(a) The local purchasing agency shall impose sanctions for fraudulent misrepresentation when a person, whether a provider or recipient of child care subsidies, or someone claiming to be a provider or recipient of child care subsidies, does the following:

- (1) With the intent to deceive, makes a false statement or representation regarding a material fact, or fails to disclose a material fact; and
- (2) As a result of the false statement or representation or the omission, obtains, attempts to obtain, or continues to receive a child care subsidy for himself or herself or for another person.

(b) The local purchasing agency shall impose the following sanctions for fraudulent misrepresentation in addition to requiring the recipient or provider to repay the amount of child care subsidy for which he or she is ineligible to receive:

- (1) After the first incidence of fraudulent misrepresentation by a recipient, the recipient shall be ineligible to receive subsidized child care services until overpayment is recouped in full or the local purchasing agency shall enter into a repayment agreement with the recipient if the recipient so desires;
- (2) After the second incidence of fraudulent misrepresentation by a recipient, the recipient shall be ineligible to participate in the subsidized child care program for three months; and
  - (A) shall repay the overpayment in full; or
  - (B) the local purchasing agency shall enter into a new repayment agreement with the recipient if the recipient so desires;
- (3) After the third incidence of fraudulent misrepresentation by a recipient, the recipient shall be permanently ineligible to participate in the subsidized child care program and shall repay the overpayment in full;
- (4) After the first incidence of fraudulent misrepresentation by a provider, the provider shall not be paid with subsidized child care funds for any new children who enroll in the provider's program for 12 months; and
  - (A) the provider shall repay the overpayment in full; or
  - (B) the local purchasing agency shall enter into a repayment agreement with the provider if the provider so desires; and
- (5) After the second incidence of fraudulent misrepresentation by a provider, the provider shall repay the overpayment in full, shall be permanently ineligible to participate in the subsidized child care program, and shall not be reimbursed for any services provided to children enrolled in the provider's program from the date of notification of sanction in accordance with G.S. 150B-23(c).

(c) If a recipient or provider enters into a repayment agreement and fails to comply with terms of that agreement, eligibility to participate in the subsidized child care program shall cease until repayment is made in full or the recipient or provider and the local purchasing agency agree to modify the repayment agreement.

(d) Notwithstanding Subparagraphs (b)(4), (5), and (6) of this Rule, the recipient or provider shall be permanently ineligible to participate in the subsidized child care program if:

- (1) the total dollar amount of the fraudulent misrepresentation exceeds ten thousand dollars (\$10,000); or
- (2) the recipient or provider is convicted of fraudulent misrepresentation pursuant to G.S. 110-107.

(e) Sanctions pursuant to this Rule shall be effective 10 days from the date of notice of the sanction. Appeal of a sanction shall not stay the termination of payments under this Rule.

(f) A child care provider may appeal any sanction imposed in Paragraph (b) of this Rule pursuant to 10A NCAC 10 .0311 and 10A NCAC 10. 0312. A recipient may appeal any sanction imposed in Paragraph (b) of this Rule by following the appeals procedures pursuant to G.S. 108A-79.

(g) When a court of competent jurisdiction finds a recipient or provider guilty of fraudulent misrepresentation pursuant to Subparagraph (d)(2) of this Rule, the sanction imposed is not subject to appeal under this Section.

(h) Nothing in this Rule shall be construed as limiting child care services pursuant to 10A NCAC 10 .0906.

*History Note: Authority G.S. 143B-153;  
Eff. April 1, 2001;  
Amended Eff. December 1, 2011.*

#### **10A NCAC 10 .0309                      CORRECTION OF OVERPAYMENTS AND UNDERPAYMENTS**

(a) An overpayment made as a result of inadvertent error or fraudulent misrepresentation by the recipient or provider as described in Rule .0308(a) of this Section shall be recouped as follows:

- (1) From the recipient if the recipient at the time the overpayment occurred was at least 18 years of age or older; and
- (2) By:
  - (A) voluntary repayment by the recipient or provider;
  - (B) involuntary repayment by pursuing court action; or
  - (C) wage garnishment as permitted by law.

(b) An overpayment made due to agency error in complying with program rules and statutes shall be corrected by adjustment through the state's subsidized child care payment system.

(c) An underpayment made due to agency or provider error in complying with program rules and statutes shall be corrected within 30 days of discovery of the error, but the local purchasing agency is not required to correct the underpayment if it is discovered more than 45 days from the date the payment is made.

(d) Appeals pursuant to this Rule shall be in accordance with 10A NCAC 10 .0311 and 10A NCAC 10 .0312.

*History Note: Authority G.S. 143B-153;  
Eff. April 1, 2001;  
Amended Eff. December 1, 2011.*

**10A NCAC 10 .0310**

**REQUIREMENTS FOR THE ADMINISTRATION OF THE  
SUBSIDIZED CHILD CARE PROGRAM**

- (a) Any agency that administers child care services funding through the state's subsidized child care program shall maintain records of administration of the program for a period of three years, following the final report issued to the funding agency, or until all audits begun within the retention period are complete, whichever is longer.
- (b) Any agency that administers the state's subsidized child care program shall provide records of administration of the program upon request for review by local, state, or federal agency representatives.
- (c) Upon review of agency records of administration of the state's subsidized child care program, if it is found that child care services funding was not spent in accordance with applicable state or federal regulations, the Division shall require the agency to pay back funds improperly spent.
- (d) Any agency that both administers the state's subsidized child care program and is a provider of subsidized child care services shall develop and implement a conflict of interest policy that shall include provision for:
  - (1) parental choice for recipients of subsidized child care; and
  - (2) separate management of the subsidized child care program and the child care facility owned or operated by the agency.

*History Note: Authority G.S. 143B-153(2a);  
Eff. April 1, 2001;  
Amended Eff. December 1, 2011.*

**10A NCAC 10 .0311**

**PROVIDER APPEAL TO LOCAL PURCHASING AGENCY**

- (a) A provider or recipient wishing to contest an action shall request an initial review with the local purchasing agency within 30 calendar days of effective date of the local purchasing agency action.
- (b) The local purchasing agency must make a determination on the initial review within 10 calendar days of the request for an initial review. Within 30 calendar days of notice of the determination on the initial review by the local purchasing agency, the provider may request a local appeal hearing by the local purchasing agency.
- (c) The local appeal hearing shall be held within five calendar days of when the request is received. The local purchasing agency shall grant a delay of up to 10 days at the written request of the provider, but in no event shall the local appeal hearing be held more than 15 calendar days after the receipt of the request for hearing.
- (d) The local purchasing agency must serve a written statement of decision within 10 calendar days following the local hearing. The decision shall include the facts and conclusions which support the determination by the local purchasing agency.
- (e) The local purchasing agency shall include with its written statement of decision instructions for appealing its decision.
- (f) A provider may appeal the written statement of decision of the local purchasing agency to the State Subsidy Services Appeals Panel by filing a notice of appeal within 15 calendar days of receipt of the written statement of decision.

*History Note: Authority G.S. 143B-153;  
Eff. December 1, 2011.*

**10A NCAC 10 .0312**

**APPEAL TO DIVISION OF CHILD DEVELOPMENT AND  
EARLY EDUCATION SUBSIDY SERVICES REVIEW PANEL**

(a) Definitions.—The following definitions apply in this Rule:

- (1) "Appealing Party" means the Provider or Recipient, as defined in 10A NCAC 10 .0102.
- (2) "File or Filing" means personal delivery, delivery by certified mail, or delivery by overnight express mail to the current Chief of Subsidy Services Section (Chief), North Carolina Division of Child Development and Early Education (Division), 2201 Mail Service Center, Raleigh, NC 27699-2201. A document or paper is deemed filed as of the date it is delivered to the Chief. Filings addressed to a person other than the Division Director, or which fail to be filed within the time periods established by this Rule, or which otherwise fail to be filed in conformity with the rules in this Section shall be considered as improper filings and denied.
- (3) "State Subsidy Services Appeals Panel" means the North Carolina Division of Child Development and Early Education internal review panel established under this Rule.

(b) Appeals Panel.—The State Subsidy Services Appeals Panel (Panel) is established. The Panel shall be impartial and shall consist of one representative and one alternate representative for each Section of the Division. Representatives and alternates shall be chosen by each Section Chief.

(c) Who Can Appeal.—The following persons may appeal to the Panel after having exhausted the appeals process at the appropriate Local Purchasing Agency:

- (1) A provider or recipient to whom a local purchasing agency has issued a sanction pursuant to 10A NCAC 10 .0308;
- (2) A provider whom a local purchasing agency has failed to approve for participation in or has terminated participation the subsidized child care program pursuant to Section .0600 of this Chapter;
- (3) A provider whom a local purchasing agency has failed to approve for participation in or has terminated participation the subsidized child care program pursuant to Section .0700 of this Chapter; and
- (4) A provider wishing to contest the determination of overpayment pursuant to 10A NCAC 10 .0309.

(d) Hearing.—All members of the Panel shall hear an appeal to the Panel. An appeal shall be filed with the Panel within 30 days of exhausting the appeals process at the local purchasing agency as described as follows:

- (1) The Subsidy Services Chief shall notify the Local Purchasing Agency (LPA) that an appeal has been filed; and
- (2) Upon notification of an appeal filed pursuant to this section, the LPA shall, within five days of the date of notification, forward to the Chief, with a copy to the appellant:
  - (A) a copy of its final decision;
  - (B) the signed agreement between the LPA and the provider or recipient, where applicable; and
  - (C) all supplementary documentation considered during the local appeals process.

(e) The Panel shall convene and shall maintain a record of their decision in the appeal and the reason(s) for their decision.

(f) The Panel shall vote on each item being appealed.

- (g) Findings and decisions of the Panel shall be by majority vote.
- (h) The Panel may obtain any form of technical assistance or consultation relevant to the appeal in conducting the administrative review.
- (i) The Panel shall complete an administrative review and notify the appealing party and the LPA of its decision in writing within 20 business days of the Panel's receipt of the appeal record. The decision shall include the facts and conclusions which support the determination by the State Subsidy Services Appeals Panel.
- (j) Any decision shall be delayed until a subsequent meeting if the Panel determines that it lacks sufficient information to render a decision at the initial administrative review.
- (k) The administrative review decision shall be distributed within 10 business days of the decision being rendered.
- (l) The appellant may appeal the administrative review decision by filing a petition for contested case pursuant to G.S. 150B-23 and in accordance with G.S. 110-94. Appeals from the State Subsidy Appeals Panel must be filed within 30 days of mailing of the Panel's decision to the parties.
- (m) Decision.—A decision may direct an LPA to take an action or to refrain from taking an action.

*History Note: Authority G.S. 143B-153;  
Eff. December 1, 2011.*

**10A NCAC 10 .0313                      EFFECT OF ADMINISTRATIVE ACTION ISSUED  
AGAINST PROVIDER**

- (a) All child care subsidy payments made pursuant to a Provider Agreement shall terminate 45 days after issuance of an administrative action revoking, summarily suspending, or denying a license to operate a child care facility issued pursuant to G.S. 110-90.
- (b) An appeal of an administrative action revoking, summarily suspending, or denying a license does not stay the termination of approval to participate in the state's Subsidized Child Care Program. If under appeal, the maximum time period during which payments from the state's Subsidized Child Care Program may be made is 45 days from the date on the notice of the administrative action. A provider subject to administrative action as described in this Paragraph shall not be paid with subsidized child care funds for any new children enrolled after the date on the notice of the administrative action.
- (c) A child care provider who has received an administrative action revoking or denying a license by the Division of Child Development and Early Education, or who is currently under summary suspension, is ineligible to participate in the state's Subsidized Child Care Program as a nonlicensed child care home.

*History Note: Authority G.S. 143B-153;  
Eff. December 1, 2011.*

**SECTION .0400 – START-UP FUNDS**

**10A NCAC 10 .0401**

**DEFINITION OF START-UP FUNDS**

**10A NCAC 10 .0402**

**REVIEW CRITERIA FOR START-UP FUNDS**

*History Note: Authority G.S. 143B-10; 143B-153(2a);  
Eff. January 16, 1980;  
Amended Eff. April 1, 2001; July 1, 1990; February 1, 1986;  
Repealed Eff. December 1, 2011.*

## **SECTION .0500 - REQUIREMENTS FOR CONTRACTS WITH PRIVATE AGENCIES**

### **10A NCAC 10 .0501 SCOPE**

The rules of this Section shall apply to all private agencies administering the state subsidized child care program, in accordance with the rules in this Chapter, within any geographical area of North Carolina under contractual arrangement with the Department of Health and Human Services or a local department of social services.

*History Note: Authority G.S. 143B-153(2a);  
Eff. July 1, 1992;  
Amended Eff. April 1, 2001;  
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest  
Eff. March 1, 2016.*

### **10A NCAC 10 .0502 APPROVAL**

(a) All contracts with private agencies administering the state subsidized child care program shall be approved by the Department prior to their execution.

(b) Each private agency administering the subsidized child care program shall provide to the Department, prior to execution of a contract to administer the program, a complete and detailed copy of its budget, including both income and expenditures. If requested by the Department, the private agency shall demonstrate to the satisfaction of the Department sufficient dependable sources of income to insure its continued operation during the contract period.

*History Note: Authority G.S. 143B-153(2a);  
Eff. July 1, 1992;  
Amended Eff. April 1, 2001.*

### **10A NCAC 10 .0503 LENGTH OF CONTRACT**

Contracts with private agencies to administer the state child care program shall be for a term not to exceed one year and shall expire on or before the end of the state fiscal year.

*History Note: Authority G.S. 143B-153(2);  
Eff. July 1, 1992;  
Amended Eff. April 1, 2001.*

### **10A NCAC 10 .0504 ADMINISTRATION OF FUNDS**

State and federal funds for child care services shall be disbursed only as reimbursement to an agency for funds previously paid by the agency to child care providers for child care services.

*History Note: Authority G.S. 143B-153(2a);  
Eff. July 1, 1992;  
Amended Eff. April 1, 2001.*

**10A NCAC 10 .0505      ADMINISTRATION OF PROGRAM**

(a) Each agency administering the subsidized child care program shall exercise any powers and duties delegated to it under this Chapter or under contract in a fair and impartial manner. It shall not discriminate with respect to any child care parent or child care provider in reaction to any complaint lodged with or against the agency by that parent or child care provider or in reaction to any opposition or support expressed by that parent or child care provider to a position taken by the agency on any child care issue. It shall comply fully with the parental freedom of choice provisions of 10A NCAC 10 .0909.

(b) An agency determined by the Secretary or his designee to have violated the provisions of this Rule shall be ineligible to contract for administration of the subsidized child care program funds for a period determined by the Secretary of up to three years from the date of the Secretary's determination that a violation has occurred. Determinations by the Secretary or his designee may be appealed pursuant to G.S. 150B-23 by the agency or by the complainant if that person or entity is the person or entity aggrieved as defined in G.S. 150B-2.

*History Note: Authority G.S. 143B-153(2a);  
Eff. July 1, 1992;  
Amended Eff. April 1, 2001.*

**10A NCAC 10 .0506      RECORDS**

(a) If the private agency is organized as a corporation or unincorporated association, it shall upon request of the Department or other contractor, open its minute books of meetings of directors, shareholders, or members for inspection.

(b) Each private agency administering state child care funds shall maintain records of all receipts and disbursements for a period of three years following the final report issued to the funding agency, or until all audits begun within the retention period are complete, whichever is longer.

(c) If a private agency ceases operation, it shall provide the Department with copies of the records specified in this Rule.

(d) Each private agency administering state or federal child care services funds shall have a written policy for the inspection, examination, and copying of records maintained by the agency. The written policy shall comply with the provisions of Chapter 132 of the General Statutes.

*History Note: Authority G.S. 143B-153(2a);  
Eff. July 1, 1992;  
Amended Eff. December 1, 2011; April 1, 2001.*

## SECTION .0600 - REQUIREMENTS FOR CHILD CARE CENTERS

### 10A NCAC 10 .0601                    **STANDARDS FOR CENTERS PARTICIPATING IN THE SUBSIDIZED CHILD CARE PROGRAM**

- (a) Any center which wishes to participate in the state Subsidized Child Care Program as defined in 10A NCAC 10 .0102 shall satisfy applicable state child care requirements as codified in 10A NCAC 09, and must be approved by the local purchasing agency for participation and payment.
- (b) Any center not required by G.S. 110 to be licensed, except for religious-sponsored centers operating in accordance with G.S. 110-106, shall be licensed in order to participate in the state's Subsidized Child Care Program.
- (c) The operator of any center in the Subsidized Child Care Program shall assure that the center complies with all applicable provisions of the Civil Rights Act of 1964 and all requirements imposed thereunder.
- (d) Each child care center shall submit appropriate information to enable the local purchasing agency to establish a payment rate for the center in accordance with the rate setting policies in the annual appropriations act and codified in Section .0200.

*History Note: Authority G.S. 143B-153(2a);  
Eff. February 1, 1986;  
Amended Eff. April 1, 2001; March 1, 1996; July 1, 1990.*

### 10A NCAC 10 .0602                    **APPROVAL AND CONTINUED PARTICIPATION IN THE SUBSIDIZED CHILD CARE ASSISTANCE PROGRAM**

- (a) Application for approval to participate in the State's Subsidized Child Care Assistance Program shall be made to the local purchasing agency.
- (b) Any center approved for participation in the Subsidized Child Care Assistance Program shall continue to be eligible for as long as the center maintains compliance with all of the requirements set forth in this Chapter.
- (c) To be eligible to participate in the Subsidized Child Care Assistance Program, centers that are exempt from licensure pursuant to N.C.G.S. § 110-106, centers operating in other states, and centers certified by the United States Department of Defense shall comply with all staff orientation and training requirements set forth in 10A NCAC 09 .0705, .0706, and .0707, in accordance with the Child Care and Development Block Grant Act, 42 U.S.C. 9858, *et seq.*
- (d) When a center is found to be out of compliance with any requirement for participation, the Division shall set a time limit for compliance. The Division shall base the time limit on the length of time projected to be needed for the center to comply with the requirement. If the center fails to comply within the set time limit, approval may be terminated.
- (e) Upon request for review by a local, state, or federal agency representative, the operator of a center shall provide records pertaining to his or her participation in the state's Subsidized Child Care Assistance Program.

*History Note: Authority G.S. 143B-153(6);  
Eff. February 1, 1986;  
Amended Eff. April 1, 2001; February 1, 1996;  
Emergency Amendment Eff. August 22, 2016;  
Temporary Amendment Eff. October 28, 2016.*

**10A NCAC 10 .0603      APPEALS**

*History Note: Authority G.S. 143B-153(2a); 150B-23;  
Eff. February 1, 1986;  
Amended Eff. April 1, 2001; July 1, 1990;  
Repealed Eff. December 1, 2011.*

## **SECTION .0700 - REQUIREMENTS FOR FAMILY CHILD CARE HOMES**

### **10A NCAC 10 .0701                      STANDARDS FOR FAMILY CHILD CARE HOMES PARTICIPATING IN THE SUBSIDIZED CHILD CARE PROGRAM**

- (a) Any family child care home which wishes to participate in the state subsidized child care program as defined in 10A NCAC 10 .0102 shall comply with the standards for family child care homes as codified in 10A NCAC 09 .1700 and all other applicable state family child care home requirements in 10A NCAC 09 and G.S. 110 Article 7.
- (b) The operator of any family child care home participating in the subsidized child care program shall assure that the home complies with all applicable provisions of the Civil Rights Act of 1964 and all requirements imposed therein.
- (c) Any family child care home that wishes to participate in the subsidized child care program must be approved by the local purchasing agency for participation and payment.
- (d) Each family child care home shall submit appropriate information to enable the local purchasing agency to establish a payment rate for the home in accordance with the rate setting policies in the annual appropriations act and codified in Section .0200.
- (e) Approval indicates that all requirements have been met.

*History Note: Authority G.S. 143B-153;  
Eff. January 1, 1985;  
Amended Eff. April 1, 2001; February 1, 1996; July 1, 1990.*

### **10A NCAC 10 .0702                      APPROVAL AND CONTINUED PARTICIPATION IN THE SUBSIDIZED CHILD CARE ASSISTANCE PROGRAM**

- (a) Any family child care home approved for participation in the Subsidized Child Care Assistance Program shall continue to be eligible for as long as the home maintains compliance with all of the requirements set forth in this Chapter.
- (b) To be eligible to participate in the Subsidized Child Care Assistance Program, family child care homes that are exempt from licensure pursuant to N.C.G.S. § 110-106, family child care homes operating in other states, and family child care homes certified by the United States Department of Defense shall comply with all staff orientation and training requirements set forth in 10A NCAC 09 .1701, .1705 and .1731, in accordance with the Child Care and Development Block Grant Act, 42 U.S.C. 9858, *et seq.*
- (c) When a home is found to be out of compliance with any requirement for participation, the Division shall set a time limit for compliance. The Division shall base the time limit on the length of time projected to be needed for the home to comply with the requirement. If the home fails to comply within the set time limit, approval shall be terminated.
- (d) Upon request for review by a local, state or federal agency representative, the operator of a family child care home shall provide records pertaining to his or her participation in the state's Subsidized Child Care Assistance Program.

*History Note: Authority G.S. 143B-153(6);  
Eff. January 1, 1988;  
Amended Eff. April 1, 2001; February 1, 1996;  
Emergency Amendment Eff. August 22, 2016;*

*Temporary Amendment Eff. October 28, 2016.*

**10A NCAC 10 .0703      APPEALS**

*History Note: Authority G.S. 143B-153(2a); 150B-23;  
Eff. January 1, 1988;  
Amended Eff. April 1, 2001; July 1, 1990;  
Repealed Eff. December 1, 2011.*

**SECTION .0800 - REQUIREMENTS FOR NONLICENSED CHILD CARE HOMES**

<b>10A NCAC 10 .0801</b>	<b>DEFINITION</b>
<b>10A NCAC 10 .0802</b>	<b>DIVISION RESPONSIBILITY</b>
<b>10A NCAC 10 .0803</b>	<b>LOCAL PURCHASING AGENCY RESPONSIBILITY</b>
<b>10A NCAC 10 .0804</b>	<b>INITIAL APPROVAL</b>
<b>10A NCAC 10 .0805</b>	<b>MAINTAINING APPROVAL</b>
<b>10A NCAC 10 .0806</b>	<b>PAYMENT REQUIREMENTS</b>
<b>10A NCAC 10 .0807</b>	<b>APPEALS</b>
<b>10A NCAC 10 .0808</b>	<b>APPLICABILITY OF RULES</b>
<b>10A NCAC 10 .0809</b>	<b>PARENT-PROVIDER CHECKLIST</b>
<b>10A NCAC 10 .0810</b>	<b>HEALTH AND SAFETY STANDARDS</b>
<b>10A NCAC 10 .0811</b>	<b>PROVIDER REQUIREMENTS</b>

*History Note: Authority G.S. 110-90.2; 110-90.2(a)(2); 143B-153(2a); 150B-21.6; 45 C.F.R. 98.11(b); 45 C.F.R. 98.40; 45 C.F.R. 98.41; 45 C.F.R. 255.4(c); 45 C.F.R. 257.41; Eff. February 1, 1993; Amended Eff. April 1, 2001; February 1, 1996; February 1, 1994; Expired Eff. April 1, 2016 pursuant to G.S. 150B-21.3A.*

## **SECTION .0900 - GENERAL POLICIES FOR PROVISION OF SUBSIDIZED CHILD CARE SERVICES**

### **10A NCAC 10 .0901 SCOPE**

The rules of this Subchapter set forth general policies governing conditions for the provision of subsidized child care services under the funding sources administered by the Division. General policies include methods of service provision, definition of the service, and eligibility criteria.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. April 1, 2001; February 1, 1996; July 1, 1990;  
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest  
Eff. March 1, 2016.*

### **10A NCAC 10 .0902 METHODS OF SERVICE PROVISION**

- (a) Child care services may be provided directly by a Department of Health and Human Services agency or the county departments of social services or may be provided through contractual arrangement.
- (b) The service must be provided in child care facilities or arrangements that meet rules adopted by the Social Services Commission.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. April 1, 2001.*

### **10A NCAC 10 .0903 DEFINITION OF SERVICE**

- (a) Primary Service. Child care services means the provision of protection, care and developmental experiences to children ages birth to 18 years, for a portion of a day but less than 24 hours, in the child's own home, in the home of a caregiver, or in a child care center. Each type of care arrangement shall meet all state and federal standards applicable to such arrangements. Services include providing information to families and the community about what constitutes a good child care experience and assisting eligible families as needed with the cost of purchasing the child care service consistent with state policies. In addition, transportation may be included in child care services. For each type of care arrangement, the equipment and materials necessary to carry out the daily program of activities shall be included in the services provided.
- (b) Component. Transportation, when needed and not otherwise available, shall be provided to access child care programs for persons receiving services in conjunction with protective services. Transportation, when needed and not otherwise available, may be provided to access child care services for other persons who are eligible for child care services.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. April 1, 2001; February 1, 1996.*

**10A NCAC 10 .0904      OPTIONAL PROVISION OF SERVICES**

(a) Notwithstanding other rules in this Chapter, child day care services may be provided to children in counties receiving Smart Start funds authorized by G.S. 143B, Part 10B of Article 3, provided that the child care services are included in the local partnership's approved Smart Start plan.

(b) When the availability of funding is less than the amount needed to serve all eligible children, the local agency responsible for determining child eligibility for subsidized child care services may establish the priority for serving families. The order of priority shall be stated in writing and made available to applicants for child care assistance.

*History Note: Authority G.S. 143B-153;*

*Eff. July 1, 1983;*

*Amended Eff. April 1, 2001; March 1, 1996; February 1, 1994; July 1, 1990.*

**10A NCAC 10 .0905      SUPPORT TO EMPLOYMENT: TRAINING FOR  
EMPLOYMENT**

(a) Child care services shall be provided to support employment of the recipient.

(b) Child care services shall be provided to support training leading to employment of the recipient.

(c) Where a recipient remains in the home and is capable of providing care for the child, child care services shall not be provided as a support for employment or training. Where the local purchasing agency determines that the recipient is incapable of providing care for the child, and child care services shall be provided for the needs of the child and to maintain family stability. The reasons for this determination shall be documented in the client's record and may include the following:

- (1) illness;
- (2) disability;
- (3) complications related to pregnancy;
- (4) hospitalization;
- (5) substance abuse treatment; or
- (6) that the recipient is elderly and incapable of caring for the child.

(d) Child care services may be provided when recipient is engaged in gainful employment on either a full-time or part-time basis.

(e) Where the recipient is temporarily absent from employment, training, or educational program with arrangements to continue the same employment, training, or educational program, child care services shall continue for at least 90 days. Where an absence from work, training, or educational program extends beyond 90 days, the local purchasing agency shall determine on the basis of individual circumstances whether child care shall continue beyond that time period. Where child care is continued beyond 90 days, the reasons for such extension shall be documented in the client's record and may include the following:

- (1) the recipient is on maternity leave and intends to return to work;
- (2) the recipient has been temporarily laid off and the employer has indicated that employment will resume within a month; or
- (3) the recipient works in a high demand field and is likely to find new employment within a month.

(f) Where a recipient is unemployed but is seeking employment, child care services shall be provided for at least 90 days if the recipient is already receiving subsidized child care services. Continuation of the service may be extended if the agency determines such extension is warranted,

provided the reason for the extension is documented in the client's record and may include the following:

- (1) the likelihood of obtaining employment based upon prior job search activities;
- (2) the recipient has a job interview scheduled in the near future; or
- (3) the recipient is waiting to hear the results of a recent job interview.

(g) Where a recipient no longer attends a training or educational program, child care services shall continue to be provided for at least 90 days after the recipient stops attending the training or educational program to permit the recipient to seek employment or resume attendance at a training or educational program if the recipient is already receiving subsidized child care services. Continuation of the service may be extended if the agency determines such extension as warranted, provided the reason for the extension is documented in the client's record and may include the following:

- (1) recommendations from teaching staff at educational institutions;
- (2) the individual needs and abilities of the recipient;
- (3) whether the recipient has developed career goals; or
- (4) whether the recipient has developed a personal plan for completing training.

(h) For purposes of this Rule, training leading to employment shall include the following:

- (1) continuation of high school within the school system;
- (2) basic education or a high school education or its equivalent in community colleges or technical institutes; and
- (3) post secondary education or skills training, up to a maximum of two years enrollment.

*History Note: Authority G.S. 143B-153;*

*Eff. July 1, 1983;*

*Amended Eff. June 1, 2016; April 1, 2001; March 1, 1996; July 1, 1990.*

#### **10A NCAC 10 .0906 SUPPORT FOR PROTECTIVE AND CHILD WELFARE SERVICES**

(a) Child care services shall be provided when needed to enable a child to remain in his own home when receiving protective services for children. The child must be receiving protective services through the local department of social services pursuant to G.S. 7B.

(b) Child care services shall be provided to children who need child care as a support to Child Welfare Services. Child Welfare Services means the protection from abuse, neglect, or dependency; or support to the provision of a safe permanent home as described in G.S. 7B-101; G.S. 7B-300; G.S. 48-1-101; G.S. 108A-14 (11) and (12); G.S. 108A-48; 10A NCAC 70A; and 10A NCAC 70B.

*History Note: Authority G.S. 143B-153;*

*Eff. July 1, 1983;*

*Amended Eff. April 1, 2001.*

#### **10A NCAC 10 .0907 PROMOTE CHILD'S DEVELOPMENT**

(a) Child care services shall be provided to a child whose emotional, cognitive, social or physical development is delayed or is at risk of being delayed.

(b) This service may be provided by any approved center or home which meets the child's need for developmental care.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. April 1, 2001; July 1, 1990.*

**10A NCAC 10 .0908      LIMITATIONS**

- (a) Child care services as a support for protective services shall not be provided to children living in foster care arrangements.
- (b) Child care services as a support for training leading to employment for the parent or responsible adult shall not be provided when the parent is participating in graduate or post-graduate studies.
- (c) Child care services are limited to a total of two years when the parent or responsible adult is enrolled in a post-secondary degree program.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. April 1, 2001; February 1, 1996; July 1, 1990.*

**10A NCAC 10 .0909      PARENTAL FREEDOM OF CHOICE**

- (a) Parents receiving assistance for their children through the subsidized child care program shall choose any child care provider, approved for participation in the subsidized child care program under Sections .0600, .0700, or .0800 of these Rules, to provide child care services for their eligible children. The parent's choice of provider shall be accepted when there is space available in the facility and the child's enrollment will not violate the provider's licensed capacity.
- (b) Purchasing agencies administering funds through the subsidized child care program shall notify parents applying for participation in the program of their right to choose the approved child care provider which will provide child care services to their eligible children.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1991;  
Amended Eff. April 1, 2001.*

**10A NCAC 10 .0910      DEFINITION OF SPECIAL NEEDS CHILD**

- (a) As used in this Chapter a special needs child is one who qualifies under one or more of the criteria listed in this Paragraph:
  - (1) a child who is determined by the Division of Public Health, Children's Developmental Service Agency, to be developmentally delayed or have an established condition pursuant to 10A NCAC 43G .0110; including subsequent amendments; or
  - (2) a child who is determined by the local educational agency (LEA) to have a disability as defined in G.S. 115C-106.3.

A copy of 10A NCAC 43G .0110 may be obtained from the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, North Carolina, 27699-6714, (919) 431-3000.

- (b) The agency determining eligibility for the services shall have on file an Individualized Education Program (IEP) as defined in G.S. 115C-106.3, an Individualized Family Service Plan (IFSP) as defined in 10A NCAC 27G .0903, a Section 504 Plan as defined in 29 USC 794 or a Person Centered Plan (PCP) as defined in 10A NCAC 70G .0402 to document the "special need" or "disability".

(c) Eligibility for the supplemental rate is contingent upon the provider's compliance with the activities designated for the provider in the child's individualized plan.

*History Note: Authority G.S. 143B-153(2a);*

*Eff. December 1, 1992;*

*Amended Eff. December 1, 2011; April 1, 2001; February 1, 1996.*

## SECTION .1000 - ELIGIBILITY FOR SERVICES

### 10A NCAC 10 .1001 BASIC ELIGIBILITY CRITERIA

In addition to the requirements of 10A NCAC .0900, in order for an individual to be determined eligible to receive subsidized child care services, it must be established that he or she is eligible on the basis of income eligible status, unless the service is available without regard to income as referenced in Rule .1004 of this Section.

*History Note: Authority G.S. 143B-153;*

*Eff. July 1, 1983;*

*Amended Eff. April 1, 2001; February 1, 1996; October 1, 1991; July 1, 1990.*

### 10A NCAC 10 .1002 INCOME ELIGIBLE STATUS

(a) For the purpose of the rules in this Subchapter, the term "income unit" shall apply to persons who reside in the same household and who, according to North Carolina law, are responsible for the financial support of the individual whose eligibility for child care services is being determined. Also for the purpose of determining eligibility for child care services, the terms "income unit" and "family" are used interchangeably in the rules in this Subchapter.

(b) When the amount of income available to an individual is a condition of eligibility for child care services, it is necessary to determine the number of persons in the individual's income unit and the amount of the gross income available to the income unit. The number of individuals in the income unit is referred to as the "income unit size" or "family size". These terms are used interchangeably in the rules in this Subchapter. The total amount of the income used to determine child care eligibility is referred to as the "gross income of the income unit" or "family income". These terms are used interchangeably in the rules in this Subchapter.

(c) Child care services may be provided to individuals other than those described in 10A NCAC 10 .0906 and in Rule .1004 of this Section provided the gross annual income of the individual's income unit does not exceed the state's maximum income eligibility limit (as defined in Rule .1003 of this Section) for the number of persons in that income unit.

(d) The following are defined as separate income units for the purposes of determining eligibility and client fees for child care services:

- (1) Biological and adoptive parents and their minor children. A step-parent shall be included in the income unit with his/her spouse when the children in need of care include their biological or adoptive child and step-siblings;
- (2) A minor parent and his or her children;
- (3) Each adult whether related or unrelated, other than spouses; and
- (4) Each child living with anyone other than their biological or adoptive parents.

(e) Income to be considered when computing the gross income of the income unit is as follows:

- (1) Gross earned wages or salary (earnings received for work performed as an employee, including wages, salary, commissions, tips, piece-rate payments, and cash bonuses earned, before any deductions are made for taxes, bonds, pensions, union dues, etc.);
- (2) Adjusted gross income from taxable self-employment income;
- (3) Social Security benefits (includes Social Security pensions, survivors' benefits and permanent disability insurance payments);
- (4) Dividends, interest (on savings or bonds), income from estates or trusts, royalties, adjusted gross rental income on houses, stores or other property;

- (5) Pensions and annuities paid directly by an employer or union or through an insurance company;
  - (6) Workers' compensation for injuries incurred at work.;
  - (7) Unemployment insurance benefits;
  - (8) Alimony (includes direct and indirect payments, such as rent and utility payments);
  - (9) Child support, direct or indirect;
  - (10) Pensions paid to veterans or survivors of deceased veterans;
  - (11) On-the-Job Training (OJT) payments;
  - (12) Job Training Partnership Act (JTPA) payments made to an adult;
  - (13) AmeriCorps stipend (living allowance);
  - (14) Armed Forces pay (only the amounts taxable, such as base pay);
  - (15) Work release payments;
  - (16) Cherokee Tribal Per Capita Income paid to adult family members;
  - (17) Work-study payments, if the income is from a program not administered under Title IV of the Higher Education Act or the Bureau of Indian Affairs; and
  - (18) Recurring cash contributions paid directly to the parent.
- (f) The following sources of income shall not be counted when computing the gross income of the income unit:
- (1) Work First Family Assistance;
  - (2) Supplemental Security Income (SSI);
  - (3) Lump sum payments (e.g. Social Security benefits, workers' compensation, alimony, veteran's benefits, HUD);
  - (4) Foster care assistance payments;
  - (5) Adoption Assistance payments;
  - (6) Payments/trust funds under the Indian Claims Commission;
  - (7) Payments from the Alaska Native Claims Settlement Act;
  - (8) Income from sale of personal assets (stocks, bonds, house, car, and insurance);
  - (9) Bank withdrawals;
  - (10) Money borrowed;
  - (11) Tax refunds;
  - (12) Gifts or contributions;
  - (13) Other in-kind contributions from non-legally responsible adults;
  - (14) Emergency Assistance, Low Income Energy Assistance Program, Crisis Intervention Program, General Assistance, or CP&L Share Program payments;
  - (15) Section VIII housing subsidy;
  - (16) Capital gains;
  - (17) Value of food stamp benefits allotted under the Food Stamp Act of 1977;
  - (18) Free and reduced lunch program;
  - (19) Any and all food subsidy programs;
  - (20) Relocation/Acquisition Act payments;
  - (21) Earnings of a dependent child under 18 years of age, unless a minor parent of a child needing child care;
  - (22) Loans, grants, scholarships, money received through job training, Pell or Carl Perkins grants;
  - (23) Home produce utilized for household consumption;
  - (24) Volunteers in Service to America (VISTA) earnings;

- (25) Payments received as Earned Income Tax Credits or Dependent Care Credits;
- (26) All subsidized housing and housing allotments, including military housing allotments. If rent is provided by an organization on a regular basis, it shall be counted as income;
- (27) Money received from an employer as an employee benefit for child care; and
- (28) Work-study payments, if the income is from the College Work-Study Program administered under Title IV of the Higher Education Act or the Bureau of Indian Affairs. (Likewise, if the income from college work-study goes directly to the college, it is not counted as income.)

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. April 1, 2001; February 1, 1996; July 1, 1992; October 1, 1991.*

**10A NCAC 10 .1003 INCOME ELIGIBILITY LEVELS**

The maximum gross annual incomes for eligibility for subsidized child day care services, adjusted for family size, shall be established by the annual appropriations act.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. April 1, 2001; July 1, 1992.*

**10A NCAC 10 .1004 WITHOUT REGARD TO INCOME**

Child care services shall be provided without regard to income for:

- (1) children described in 10A NCAC 10 .0906(b) who need child care services as a support for Child Welfare Services;
- (2) children receiving foster care services who are in the custody of the county department of social services and are residing in licensed foster care homes or in the care of adults other than their parents; and
- (3) children described in 10A NCAC 10 .0906(a) who need child care in conjunction with protective services.

*History Note: Authority G.S. 143B-153(2a);  
Eff. July 1, 1983;  
Amended Eff. April 1, 2001; February 1, 1996; February 1, 1986.*

**10A NCAC 10 .1005 RESPONSIBILITY FOR ELIGIBILITY DETERMINATION**

Responsibility for eligibility determination, redetermination, and case management for child care services funded by subsidized child care services funding shall rest with those agencies authorized by the Secretary of the Department of Health and Human Services.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. April 1, 2001; February 1, 1996.*

**10A NCAC 10 .1006 DETERMINATION OF INCOME ELIGIBILITY**

An individual that applies for child care services shall provide to the local purchasing agency verification of the amount and sources of his or her countable income. The amount and source of income shall be verified by one of the following:

- (1) A copy of a source document; or
- (2) A written statement by the social worker describing either the source document that was reviewed to verify the income or a telephone conversation that confirmed the required information or
- (3) Identification of an existing agency record confirming the required information.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. April 1, 2001.*

**10A NCAC 10 .1007 REQUIREMENTS FOR DETERMINATION AND  
REDETERMINATION OF ELIGIBILITY**

- (a) The Division shall establish the requirements for application and eligibility determination and redetermination for child care services. Eligibility shall be determined initially in accordance with 10A NCAC 10 .0900 and .1000, and annually thereafter unless a change occurs that impacts eligibility. Recipients who are employed or in school and whose income is at or below the federal income limit of 85 percent of State Median Income shall not have these activities disrupted during the 12 month eligibility period.
- (b) If the Local Purchasing Agency, upon redetermination, determines that the family exceeds the State's income eligibility limits, the family shall continue to receive subsidized child care services for 90 days if their income is at or below the federal income limit of 85 percent of State Median Income.
- (c) Annual federal income limits are determined in accordance with the U.S. Federal Poverty Guidelines issued by the U.S. Department of Health and Human Services, is incorporated by reference and includes subsequent amendments and editions. A copy of these guidelines may be found at <http://aspe.hhs.gov/poverty/index.cfm>.

*History Note: Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. June 1, 2016; April 1, 2001.*

## **SECTION .1100 - CLIENT FEES FOR CHILD CARE SERVICES**

### **10A NCAC 10 .1101 GENERAL FEE POLICY**

(a) No fees shall be charged to the client when child care services are provided to individuals in the following circumstances:

- (1) children receiving child care services in conjunction with protective services as described in 10A NCAC 10 .0906(a);
- (2) when child care services are provided as a support to a child receiving Child Welfare Services as described in 10A NCAC 10 .0906(b); and
- (3) when a child with no income is living with someone other than his or her biological or adoptive parent or is living with someone who does not have court-ordered financial responsibility.

(b) Except as provided for in Paragraph (a) of this Rule, the client shall be assessed a fee for child care services.

*History Note: Authority G.S. 143B-153(2a);*

*Eff. July 1, 1983;*

*Amended Eff. April 1, 2001; July 1, 1992; July 1, 1990; February 1, 1986.*

### **10A NCAC 10 .1102 AMOUNT AND COLLECTION OF CLIENT FEES**

(a) The amount of the fees charged to the client shall be in accordance with annual appropriations act.

(b) Fee charges to the client may be disregarded when the total amount due is less than five dollars (\$5.00) per month.

(c) Collection of fees assessed to the client shall be the responsibility of the child care provider.

*History Note: Authority G.S. 143B-153;*

*Eff. July 1, 1983;*

*Amended Eff. April 1, 2001; July 1, 1990.*

### **10A NCAC 10 .1103 ADJUSTMENTS IN FEES**

(a) If family medical expenses exceed 10 percent of the family's gross income in any eligibility period, the family's fee shall be reassessed based on the family's adjusted income. The family's income shall be adjusted by deducting the amount of medical expenses that exceed 10 percent of the family's gross income.

(b) When the approved care plan is for less than full-day care, the assessed fee for the service shall be adjusted by the appropriate percentage relative to the approved care plan.

*History Note: Authority G.S. 143B-153;*

*Eff. July 1, 1983;*

*Amended Eff. April 1, 2001; December 1, 1992; July 1, 1992; July 1, 1990.*